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CLERK U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

RONALD J. McINTOSH,  
Petitioner,

v.

ERIC H. HOLDER, JR., et al.,  
Respondents.

Case No. CV 09-0750 CRB (PR)

ADDENDUM TO PETITIONER'S  
REPLY BRIEF IN OPPOSITION TO  
RESPONDENT'S MOTION TO DISMISS

COMES NOW the Peitioner, Ronald J. McIntosh, Pro Se., herein after, "McIntosh", with his Addendum to Petitioner's Reply Brief in Opposition to Respondent's Motion to Dismiss.\*

HISTORY OF PROCEEDINGS

On December 14, 1990, McIntosh was convicted of conspiracy to murder and thereby first degree murder, by a jury, with a special

\* Petitioner, McIntosh, filed his Reply Brief in Opposition to Respondent's Motion to Dismiss without the benefit of having received the Repondent's Motion, as it was filed untimely. McIntosh when filing his Opposition Brief respectfully requested that he be allowed to amend his Opposition Brief if necessary, this is the addendum to McIntosh's Reply Brief in Opposition to Respondent's Motion to Dismiss.

circumstance of murder for financial gain. On February 20, 1991, McIntosh was sentenced to life without the possibility of parole.

The California Court of Appeals affirmed the conviction on September 22, 1992. The California Supreme Court denied review on December 18, 1992.

On July 14, 2006, McIntosh filed a Motion for New Trial in the San Mateo County Superior Court, which was construed as a petition for Writ of Habeas Corpus. The habeas petition was denied on June 26, 2007.

On August 27, 2007, McIntosh filed a Petition for Writ of Habeas Corpus with the California Court of Appeals. Habeas was denied on March 13, 2008.

On May 27, 2008, McIntosh filed a Petition for Writ of Habeas Corpus with the Supreme Court of California. Habeas was denied on February 11, 2009.

On February 19, 2009, McIntosh filed the Petition for Writ of Habeas Corpus, which is now before this United States District Court.

#### DISCUSSION

The Respondents in their Motion to Dismiss Habeas Petition as Untimely, clearly address the one (1) year time limitation for filing a Habeas Corpus Petition. But, the Respondents fail to address, or even acknowledge the fact that the current petition is based on newly discovered evidence.

The newly discovered evidence could not have been discovered any earlier, as it is/was the Respondents themselves who have concealed the evidence all these years.

Nor, does the Respondents address McIntosh claim of "actually innocent", which has been raised in McIntosh's petition.

#### SUMMARY

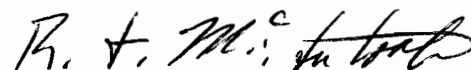
McIntosh feels that in light of the Ninth Circuit hold in Johnson v Knowles, 541 F.3d 933, 937 (9th Cir. 2008) that restated the United States Supreme Court in Schlup v Delo (1995) 513 U.S. 298; 115 S.Ct. 851; 130 L.Ed.2d 808 regarding "actually innocent" that this petition meets the standard set forth and any would-be time (procedural) bar are over come.

Further, McIntosh filed in State Court before even receiving any evidence, and within 104 days of first learning that some type of evidence "might" be out there. See McIntosh's Reply Brief in Opposition to Respondent's Motion to Dismiss, filed July 30, 2009, for details.

#### PRAYER

IT IS PRAYED that McIntosh's petition for Writ of Habeas Corpus proceed and be heard on the merits of the claims therein.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "R. J. McIntosh".

Ronald J. McIntosh, Pro Se.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing, ADDENDUM TO PETITIONER'S REPLY BRIEF IN OPPOSITION TO RESPONDENT'S MOTION TO DISMISS, was mailed by first class United States Mail, postage prepaid and attached thereto, this 5 day of August, 2009, to the attorney for the Respondents, at the location below:

Pamela K. Critchfield  
Deputy Attorney General  
455 Golden Gate Avenue, Suite 11000  
San Francisco, CA 94102-7004

*R. J. McIntosh*

Ronald J. McIntosh